SENATE BILL 3731

By Bunch

AN ACT to amend Tennessee Code Annotated, Title 38, Chapter 6, relative to criminal history information.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 6, is amended by adding Sections 2 through 3 as a new part thereto.

SECTION 2. As used in this act, unless the context otherwise requires, "criminal history record information" means information collected by law enforcement agencies arising from the initiation of a criminal proceeding, consisting of identifiable descriptions, dates and notations of citizenship or immigration status, arrests, indictments, or other formal criminal charges and any dispositions arising therefrom. Criminal history record information shall not include intelligence information, investigative information or treatment information, including medical and psychological information.

SECTION 3.

(a) Every law enforcement agency shall inquire into the citizenship and immigration status of all persons arrested for a criminal offense regardless of the person's national origin, ethnicity or race, if the inquiry does not significantly expand the duration of the detention. If a person cannot demonstrate that he or she is a citizen or national of the United States, the law enforcement agent shall verify with the federal government, under Section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208, 110 Stat. 3009-672), whether the person is an alien and, if so, whether the alien is legally present in the United States.

(b) The following information shall be forwarded to the Tennessee bureau of investigation in a manner and such form as required by bureau:

(1) The determination of citizenship or immigration status;

(2) The inability to determine citizenship or immigration status in cases where the determination would significantly expand the duration of the detention; and

(3) The criminal offenses for which such persons are arrested, issued a citation, or are otherwise charged.

(c) An arresting authority shall fully comply with and, to the full extent permitted by law, support the enforcement of federal law prohibiting the entry into, presence or residence in the United States of aliens in violation of federal law. If an alien is verified to be illegally present in the United States, the arresting authority shall cooperate with any request by federal immigration authorities to detain the alien or transfer the alien to the custody of the federal government.

(d) No arresting law enforcement agency shall be prohibited or in any way restricted from sending, receiving or maintaining information regarding the immigration status of any individual, or exchanging the information with any other federal, state or local governmental entity. No city, county or state law enforcement agency may by ordinance, resolution, informal or official policy, prevent its officers from asking individuals their citizenship or immigration status.

(e) Statistical information concerning the citizenship and immigration status of all persons arrested for a criminal offense shall be presented in a report to be furnished by the Tennessee bureau of investigation to the general assembly by February 1 of each year.

(f) The Tennessee bureau of investigation shall develop a written and an electronic form upon which law enforcement agencies shall transmit the information required by this act. Such information shall be transmitted to the bureau no less frequently than once each month.

(g) The Tennessee bureau of investigation is authorized to promulgate rules and regulations pursuant to title 4, chapter 5, to implement the provisions of this act.

SECTION 4. For the purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2009, the public welfare requiring it.